

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Mary Downing

Case No. 09-81167

Chapter 13

Social Security No. xxx-xx-9740

Address: 1203 Moreland Avenue, Durham, NC 27707-

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on July 15, 2009, with the Chapter 13 plan being subsequently confirmed on October 8, 2009.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

From: \$1,312.00 per month.

To: \$1,312.00 per month through July 2011, followed thereafter by \$1,170.00 per month, starting in August 2011.
3. To facilitate the proposed modification, the Debtor hereby surrenders any interest she may have in collateral securing the following claims:

| Creditor and Claim No. | Collateral |
|--|------------|
| National Capital Management/Santander (claim no.3) | Vehicle |

4. At the time of the filing of the Debtor's Chapter 13 bankruptcy, the Vehicle had a fair market value of \$5,940.00, requiring adequate protection payments in the amount of \$59.40, or a total of \$1,425.60
5. At the time of the filing of the Debtor's Motion to Modify, the Debtor had paid \$5,940.00 to National Capital Management/Santander, exceeding the depreciation, pursuant to local rule and the Confirmation Order, on the Vehicle

6. The changed circumstances that justify the proposed modification are as follows:
 - a. The 2005 Toyota Corolla, which is subject to the lien of NCM/Santander, was involved in a motor vehicle accident, declare a total loss, with insurance proceeds paying of the balance of the claim.
 - b. The Debtor has needed to replace her hot water heater.
7. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.
8. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference.
9. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
 - a. Surrender of property.
 - b. Change in length of plan.
 - c. Change in equal monthly payment to Citifinancial from \$72.43 to \$64.00.

Appended Application for an Additional Attorney Fee

10. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.
11. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(a), for approval reimbursement for the cost of mailing this Motion to all parties in interest in the amount of \$0.50 per motion for thirty-seven (37) creditors, or total expenses of \$18.50.

WHEREFORE, the Debtor prays that this Court grant her Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$268.50 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: August 2, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward C. Boltz

Edward C. Boltz

North Carolina State Bar No.: 23003

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
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In Re:

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Chapter 13

Social Security No. xxx-xx-9740

Address: 1203 Moreland Avenue, Durham, NC 27707-

Debtor

CERTIFICATE OF SERVICE

I, Dawn DeFrange, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on August 2, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
Michael West
U.S. Bankruptcy Administrator

Mary Downing
1203 Moreland Avenue,
Durham, NC 27707-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Dawn DeFrange
Dawn DeFrange

In re **Mary W. Downing**

Debtor(s)

Case No. **09-81167****SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

| | | |
|---|---|---------|
| Debtor's Marital Status: Divorced | DEPENDENTS OF DEBTOR AND SPOUSE | |
| | RELATIONSHIP(S): None. | AGE(S): |
| Employment: | DEBTOR | SPOUSE |
| Occupation | Agent Representative | |
| Name of Employer | Blue Cross Blue Shield | |
| How long employed | 23 Years | |
| Address of Employer | 5901 Chapel Hill Road Durham, NC 27707 | |

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify): **401(k) Loan****401(k) Contribution**

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify):

12. Pension or retirement income

13. Other monthly income

(Specify):

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

| DEBTOR | SPOUSE |
|--------------------|---------------|
| \$ 3,666.05 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 3,666.05 | \$ N/A |
| \$ 862.23 | \$ N/A |
| \$ 153.57 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 79.26 | \$ N/A |
| \$ 36.29 | \$ N/A |
| \$ 1,131.35 | \$ N/A |
| \$ 2,534.70 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 0.00 | \$ N/A |
| \$ 2,534.70 | \$ N/A |
| \$ 2,534.70 | |

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

None Anticipated

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Expense Attachment

Other Utility Expenditures:

| | | |
|---|-----------|---------------|
| Cellular Phone | \$ | 69.00 |
| Cable | \$ | 74.70 |
| Internet | \$ | 35.00 |
| Total Other Utility Expenditures | \$ | 178.70 |

Specific Tax Expenditures:

| | | |
|-------------------------------|-----------|--------------|
| Personal Property Taxes | \$ | 10.00 |
| Real Property Taxes | \$ | 10.00 |
| Total Tax Expenditures | \$ | 20.00 |

Other Expenditures:

| | | |
|---------------------------------|-----------|-----------------|
| Emergencies/Miscellaneous | \$ | 100.00 |
| Personal Care | \$ | 71.00 |
| Monthly Chapter 13 Payment | \$ | 1,170.00 |
| Total Other Expenditures | \$ | 1,341.00 |

CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)

Date: 7/21/11

Lastname-SS#: Downing-9740 MTM

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

| Creditor Name | Sch D # | Description of Collateral |
|---------------|---------|---------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

SURRENDER COLLATERAL

| Creditor Name | Description of Collateral |
|------------------|---------------------------|
| National Capital | 05 Toyota |
| | |
| | |
| | |
| | |

ARREARAGE CLAIMS ON RETAINED COLLATERAL

| Creditor Name | Sch D # | Arrearage Amount |
|---------------------|---------|------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| Beneficial Mortgage | | \$4,028 |
| | | |
| | | |

REJECTED EXECUTORY CONTRACTS/LEASES

| Creditor Name | Description of Collateral |
|---------------|---------------------------|
| | |
| | |
| | |
| | |
| | |

LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY

| Creditor Name | Sch D # | Mortgage Payment | Int. Rate | Adequate Protection | Minimum Equal Payment | Description of Collateral |
|---------------------|---------|------------------|-----------|---------------------|-----------------------|---------------------------|
| Beneficial Mortgage | | \$952 | n/a | n/a | \$952 | |
| | | | n/a | n/a | | |
| | | | n/a | n/a | | |

STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)

| Creditor Name | Sch D # | FMV | Int. Rate | Adequate Protection | Minimum Equal Payment | Description of Collateral |
|---------------|---------|-----|-----------|---------------------|-----------------------|---------------------------|
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |

STD - SECURED DEBTS & PTO CLAIMS (Pay 100%)

| Creditor Name | Sch D # | Payoff Amount | Int. Rate | Adequate Protection | Minimum Equal Payment | Description of Collateral |
|---------------|---------|---------------|-----------|---------------------|-----------------------|---------------------------|
| Citifinancial | | \$2,618 | 5.25 | \$26 | \$64 | 00 Chrysler |
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |

ATTORNEY FEES (Unpaid Part)

| Amount |
|-------------------------------------|
| Law Offices of John T. Orcutt, P.C. |

SECURED TAXES

| Secured Amount |
|----------------|
| IRS Tax Liens |

Real Property Taxes on Retained Realty

UNSECURED PRIORITY DEBTS

| Amount |
|-----------|
| IRS Taxes |

State Taxes

Personal Property Taxes

Alimony or Child Support Arrearage

| Int. % | Payoff Amount |
|---------------------------|---------------|
| COSIGN PROTECT (Pay 100%) | |

All 'Co-Sign Protect Debts (See***)

| Amount to Pay * |
|--------------------------------|
| GENERAL NON-PRIORITY UNSECURED |

DML = None(\$0)

PROPOSED CHAPTER 13 PLAN

\$ 1170 /month for 45 months, then

\$ N/A /month for N/A months.**

Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

* = Minimum of DMI x ACP, minus all co-sign protect debt.

** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

*** Co-sign protect on all debts so designated on filed schedules D, E and F

Final_MD_Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)

Other Miscellaneous Provisions